

**JURY VERDICT**

**Question No. 1**

Was Mrs. Brooks sexually harassed by her co-workers?

Answer "Yes" or "No": YES

If you answered "Yes" to Question No. 1, then answer Question No. 2.

If you answered "No" to Question No. 1, then go directly to Question No. 5.

**Question No. 2**

Did Defendant, O'Reilly Automotive, Inc., know, or in the exercise of reasonable care, should it have known, that Mrs. Brooks was sexually harassed by her co-workers?

Answer "Yes" or "No": YES

If you answered "Yes" to Question No. 2, then answer Question No. 3.

If you answered "No" to Question No. 2, then go directly to Question No. 5.

**Question No. 3**

Did the employer, O'Reilly Automotive, Inc., fail to take prompt remedial action?

Answer "Yes" or "No":       No      

If you answered "Yes" to Question No. 3, then answer Question No. 4.

If you answered "No" to Question No. 3, then go directly to Question No. 5.

**Question No. 4**

Was Mrs. Brooks constructively discharged from her employment with O'Reilly Automotive, Inc.?

Answer "Yes" or "No": \_\_\_\_\_

Answer Question No. 5.

**Question No. 5**

Was Mrs. Brooks harassed by her supervisor, Barry Busshart, because of her gender?

Answer "Yes" or "No":     No    

If you answered "Yes" to Question No. 5, then answer Question No 6.

If you answered "No" to Question No 5, then go directly to Question No. 9 and answer Question No. 9; **IF NECESSARY ANSWER QUESTION 9 BASED ON YOUR ANSWERS TO QUESTIONS 1, 2, 3 AND 4**

**Question No. 6**

Was Mrs. Brooks constructively discharged from her employment with O'Reilly Automotive, Inc. because of the conduct of Barry Busshart acting in his capacity as her supervisor?

Answer "Yes" or "No": \_\_\_\_\_

If you answered "No" to Question No. 6, then go to Question No. 7 and answer Question No. 7.

If you answered "Yes" to Question No. 6, then go directly to Question No. 9 and answer Question No. 9.

**Question No. 7**

Did O'Reilly Automotive, Inc. prove by a preponderance of the evidence that it exercised reasonable care to prevent and promptly correct any sexually harassing behavior?

Answer "Yes" or "No": \_\_\_\_\_

If you answered "Yes" to Question No.7, answer Question No. 8.

If you answered "No" to Question No. 7, then do not answer Question No.8 and proceed to the next page.

**Question No. 8**

Did O'Reilly Automotive, Inc. prove by a preponderance of the evidence that Mrs. Brooks unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer, or to avoid harm otherwise.

Answer "Yes" or "No": \_\_\_\_\_

Proceed to the next page.

**YOU MAY ANSWER QUESTION 9**

**/** If you answered "Yes" to Question No. 1, "Yes" to Question No. 2, "Yes" to Question No. 3, ~~Yes~~ "Yes" to Question No. 4, <sup>OR</sup> ~~Yes~~ **YES TO QUESTION 6 .**

or,

if you answered "No" to Question No. 7 or "No" to Question No.8, then answer the following: Question No. 9, Question 10 and Question 11. Otherwise do not answer Question No. 9, Question No. 10, or Question No. 11 and go directly to Question No. 12.

**Question No. 9**

What sum of money, would fairly and reasonably compensate Mrs. Brooks for the loss in back pay and benefits sustained by her, from September 14, 2006 to the present, because of O'Reilly Automotive, Inc.'s discriminatory actions?  
Answer in dollars and cents, if any.

AMOUNT: \$ \_\_\_\_\_

**Question No. 10**

What amount of money if paid now in cash, would fairly compensate Mrs. Brooks for the mental anguish damages she has suffered to date because of O'Reilly Automotive, Inc.'s discriminatory actions?

Answer in dollars and cents, if any.

AMOUNT: \$ \_\_\_\_\_

**Question No. 11**

What amount of money, if paid now in cash, would fairly compensate Mrs Brooks for the mental anguish damages she is reasonably certain to suffer in the future because of because of O'Reilly Automotive, Inc.'s discriminatory Actions?

Answer in Dollars and cents, if any:

AMOUNT: \$ \_\_\_\_\_

### Question No. 12

Did O'Reilly Automotive, Inc. fail to promote Mrs. Brooks to the position of "Parts Specialist" because of her sex/gender?

Answer "Yes" or "No": No

If you answered Question No. 12 “Yes,” then answer Question No. 13.

If you answered “No” to Question No. 12, then go to Question No. 15 and answer Question No. 15.

### Question No. 13

What sum of money, would fairly and reasonably compensate Mrs. Brooks for lost pay and benefits sustained by her, from the date Defendant failed to promote her through September 13, 2006, because of O'Reilly Automotive, Inc.'s discriminatory actions?

Answer in dollars and cents, if any.

AMOUNT: \$ \_\_\_\_\_

Answer Question No. 14.

**Question No. 14**

If you find from a preponderance of the evidence that Defendant engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of Mrs. Brooks and answered the above questions as follows:

(a) "Co-worker sexual harassment - Yes to Questions No. 1-3;  
or,

(b) Supervisor harassment - "Yes" to Question No. 5, "Yes" to Question No. 6 and also

"No" to Question No. 7; or "Yes" to Question No. 5, "Yes to Question No. 6 and also "No" to No. 8;  
or,

(c) Failure to Promote - "Yes to Question No. 12,

What sum of money, would fairly and reasonably punish O'Reilly Automotive, Inc. for its illegal conduct and fairly and reasonably deter O'Reilly Automotive Inc. from such further similar conduct in the future?

Answer in dollars and cents, if any.

AMOUNT: \$ \_\_\_\_\_

Answer Question No. 15.



**Question No. 15**

Did O'Reilly Automotive, Inc. pay Mrs. Brooks different and less wages than it paid to male Parts Specialists for equal work on jobs, the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions?

Answer "Yes" or "No": YES

If you answered "Yes" to Question No. 15, then answer Question No. 16.

If you answered "No" to Question No 15, then the jury questionnaire is complete.

**Question No. 16**

Did defendant prove by a preponderance of the evidence that the reason it paid Mrs. Brooks different and less wages than it paid male Parts Specialists was pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex?

Answer "Yes" or "No." YES

If you answered "Yes" to Question No. 16, then the jury questionnaire is complete.

If you answered "No" to Question No. 16, then answer Question No. 17.

**Question No. 17**

What sum of money, would fairly and reasonably compensate Mrs. Brooks for the differential in her pay and the wages paid to male Parts Specialists who were paid more for equal jobs?

Answer in dollars and cents, if any.

AMOUNT: \$ \_\_\_\_\_

Answer Question No. 18, if you award money damages under Question No. 17: otherwise the jury questionnaire is complete.

**Question No. 18**

Do you find from a preponderance of the evidence that Defendant knew or showed reckless disregard for the matter of whether its conduct violated the federal laws which require equal pay for equal work?

Answer "Yes" or "No." \_\_\_\_\_

Answer Question No. 19, if you answered "Yes" to No. 15; No to No. 16 and awarded money damages under No. 17:

**Question No. 19**

If you find from a preponderance of the evidence that Defendant engaged the discriminatory practice of unequal pay for equal work with malice or with reckless indifference to the federally protected rights of Mrs. Brooks, what sum of money would fairly and reasonably punish O'Reilly Automotive, Inc. for its illegal conduct and fairly and reasonably deter O'Reilly Automotive, Inc. from such further illegal conduct in the future?

Answer in dollars and cents, if any.

AMOUNT: \_\_\_\_\_

This concludes the jury questionnaire.

We, the jury have answered the above and foregoing jury questions, as indicated and return the same to the Court as our verdict.

(To be signed by the Presiding Juror if unanimous.)

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PRESIDING JUROR

(To be signed by those rendering  
verdict if not unanimous.)

11-2-2009

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DATE